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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Revision of Part 22 of the Commission's)
Rules Governing the Public Mobile Services)

CC Docket No. 92-115

TO: The Commission

COMMENTS OF U S WEST NEWVECTOR GROUP, INC.

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TABLE OF CONTENTS

	<u>Page</u>
SUMMARY	1
INTRODUCTION	2
I. COMMENTS RESPONSIVE TO ISSUES RAISED IN THE TEXT OF THE NPRM	3
A. "First Come, First Served" Application Processing	3
B. Conditional Grants	5
C. Finder's Preference	6
D. Replacement of Carey Method	7
E. Elimination of Traffic Loading Studies	8
F. Elimination of Notification Requirement for Minor Changes and Additional Transmitters Within Contours of Existing Stations	8
G. Revision of Forms	10
H. Termination of Authorizations	10
II. OTHER COMMENTS AND PROPOSALS FOR IMPROVING THE REVISION OF PART 22	12
A. Consistency With Other Rulemakings	12
B. Classification of Filings as Major or Minor	12
1. Relocation of Existing Fixed Transmitters	12
2. Extension of Existing Service Area by Less Than One Mile	13
C. Exemption from FAA Notification for In-Building Radiation Systems ...	13
D. Assignments and Transfers	14
1. Reinstate the Financial Showing Currently Applicable to Cellular Assignments and Transfers	16
2. Elimination of the Form 430 Requirement in an Assign- ment/Transfer of Control Application	17
3. Multiple Call Signs in a Single Application	17
CONCLUSION	18
Proposed Rule Revisions	Appendix 1
Application Forms and Instructions	Appendix 2

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U S WEST NewVector Group, Inc. ("NewVector") and its affiliated Part 22 licensed companies, ^{1/} by their attorneys, hereby comment in response to the Commission's *Notice of Proposed Rulemaking*, 7 FCC Rcd. 3658 (1992) ("*NPRM*"), summarized, 57 Fed. Reg. 29,260 (1992), in the captioned proceeding.

SUMMARY

On June 12, 1992, the Commission released an *NPRM* proposing to revise the Part 22 Public Mobile Services rules. The Commission has proposed the Part 22 revision in an effort "to make the rules easier to understand, to eliminate outdated rules and unnecessary information collection requirements, to streamline licensing procedures and to allow licensees greater flexibility in providing service to the public." ^{2/} The *NPRM* sets

^{1/} NewVector is licensed to provide Part 22 cellular radio telephone service in 28 MSAs and 21 RSAs throughout the western United States. NewVector's comments are submitted on behalf of itself and its affiliated cellular partnerships, as well as its wholly-owned subsidiaries engaged in the provision of Part 22 services, including its paging and conventional two-way mobile subsidiary U S WEST Paging, Inc. As noted herein, some of the comments referenced below are made on behalf of U S WEST Communications ("USWC").

^{2/} *NPRM*, 7 FCC Rcd. at 3658.

forth the proposed rules, contains a detailed discussion of the rules and requests comments relating to the more significant proposals.

In response to the Commission's proposals, set forth below are NewVector's comments on "first come, first served" application processing, conditional grants, finder's preference, replacement of the Carey Method, elimination of traffic loading studies and the minor modification notification requirement, revision of forms and termination of authorizations. For the most part, the discussion below relates to suggested changes to the Paging and Radiotelephone Service. Also, in an effort to improve the Part 22 revision, NewVector provides comments on the consistency of the Part 22 revision with other rulemakings, the major/minor classification, exemption from FAA notification for in-building radiation systems and various issues relating to transfers and assignments. Finally, in the attached appendices, NewVector recommends rule and form revisions for all Part 22 services on a section by section basis.

INTRODUCTION

NewVector strongly supports the Commission's proposed revision of Part 22. NewVector agrees that a revision is necessary in light of the numerous rulemakings which have resulted in piecemeal rule changes. In addition, significant changes in the industry have rendered some of the rules and technical approaches obsolete. The comments and suggestions set forth herein are intended to assist the Commission in its efforts to simplify Part 22, streamline the licensing process and afford licensees increased flexibility in providing service.

In Section I of its comments, NewVector addresses many of the subjects on which the Commission has specifically sought comment in the text of the *NPRM*. In Section II of its comments, NewVector discusses several of the more significant rule changes not set

forth in the text of the *NPRM*, and proposes additional changes. Finally, in the appendices to its comments, NewVector provides detailed discussions and recommendations relating to specific rule and application modifications.

I. COMMENTS RESPONSIVE TO ISSUES RAISED IN THE
TEXT OF THE *NPRM*

A. "First Come, First Served" Application Processing

In proposing to process all mutually exclusive Paging and Radiotelephone Service applications on a "first come, first served" basis ^{3/} rather than pursuant to a sixty day filing window as set forth in the current rules, the Commission cites three main objectives: (1) elimination of the need for large numbers of random selection processes, (2) expedition of application processing, and (3) prevention of "strike" applications — applications which are filed simply for the purpose of impeding a competitor's applications or to obtain payments from existing carriers in exchange for dismissing the applications.

NewVector fully supports the Commission's efforts to meet the above objectives by modifying the existing application processing procedures which are sometimes abused by entities filing "strike" applications. However, NewVector respectfully submits that the "first come, first served" process, as proposed, could be subject to similar abuses.

Specifically, the proposed process will enable entities to limit the ability of carriers to expand existing systems on specific channels, by allowing carriers to file applications in particular locations on an expedited basis for the sole purpose of speculating in authorizations. Under the proposed "first come, first served" process, carriers would have no recourse against entities filing applications that would block the expansion of existing

^{3/} See proposed § 22.509. Proposed § 22.509 also relates to applications in the Rural Radiotelephone Service.

systems and thereby encourage speculation. The new rules will result in the *de facto* establishment of a one day filing window on the effective date of the new rules. If adopted, the proposal will likely encourage both existing carriers and other entities to file numerous applications in an effort to obtain authorizations for unlicensed areas before a need for such authorizations actually arises. Thus, the proposed "first come, first served" process will result in a substantial increase in the number of applications and petitions to deny filed with the Commission, thereby creating a situation contrary to the Commission's stated objective of expediting application processing. NewVector offers two suggestions which would remedy this problem.

First, it is clear that no form of the "first come, first served" process will be entirely effective unless the Commission expressly limits the amount of compensation entities may receive in return for agreements to dismiss applications. Accordingly, NewVector strongly supports the Commission's efforts to limit such compensation.^{4/} This would discourage "strike" applications.

Second, NewVector suggests that the "first come, first served" application process be modified to enable incumbent licensees to respond to applications filed within 40 miles of their authorized stations. That is, if an application is filed for a facility to be located within 40 miles of an authorized station, the licensee of the authorized station should have 30 days from the date that the first application is placed on public notice to file a mutually-exclusive application. The applications would then be subject to a random selection process. All other applications (those proposing facilities to be located more than 40 miles from any authorized station licensed to another carrier) would be granted on a "first come, first served" basis, and would not be subject to competing applications.

^{4/} See proposed rule § 22.129.

NewVector submits that this proposal would substantially reduce recourse to the random selection process and would expedite application processing consistent with the Commission's stated goals. In addition, the modified process would provide existing carriers who have invested substantial time and expense in the development of paging networks to continue to expand their systems on an "as needed" basis.

B. Conditional Grants

The Commission has proposed relying on Public Mobile Service applicants' technical exhibits without verifying the accuracy of such exhibits prior to grant. When applicants certify that facilities proposed in an application comply with the technical rules for operation on an interference-free basis, the Commission will grant the application on the condition of non-interference for the entire license term.^{5/} As explained in the *NPRM*, if interference occurs as the result of an error or omission in the technical exhibits, the Commission would have the right to order the licensee, with no opportunity for a hearing, to suspend operation of the facilities causing interference until it is resolved.

Although the proposed conditional licensing process will reduce application processing time, NewVector is concerned that conditional licensing will introduce uncertainty into the licensing process. For example, the proposed process may result in the sudden termination of service to a licensee's customers. Moreover, the rule does not identify the types of interference that will trigger suspension of a licensee's operations.^{6/}

As an alternative to conditional licensing, the Commission should unconditionally grant applications based on technical showings in the applications without Commission verification, thus affording interference protection and relative certainty while reducing

^{5/} See proposed § 22.147.

^{6/} There are other ramifications of the proposal. For example, carriers may not be able to obtain loans because of the conditional language placed on authorizations.

application processing time. In the event interference results due to inaccurate technical showings, the Commission would retain the right to modify the license involved pursuant to Section 316 of the Communications Act, which requires notice to the licensee of a proposed modification and an opportunity to respond, but does not confer full hearing rights.

C. Finder's Preference

NewVector generally supports the goals underlying the Commission's proposed "finder's preference" — namely, to recapture unused spectrum and to facilitate the expeditious reassignment of channels to entities that will use them. ^{7/} However, NewVector has several suggestions which will improve the process.

First, the "finder's preference" rules should expressly state that the Commission will delete an existing authorization and grant the finder's application only after the Commission's investigation demonstrates, after notice and an opportunity to respond, that the licensee has not constructed its facilities within the required time or does not provide service on the channels in question. ^{8/} Any such notice should comply with the requirements of Section 316 of the Communications Act and should specifically give notice that the FCC may modify the licensee's authorization without further hearing if the channels are not

^{7/} See proposed § 22.167. As discussed in Appendix 1 hereto at § 22.167, cellular frequencies are authorized on a block-by-block rather than channel-by-channel basis and, therefore, the proposed rule is inapplicable to cellular service. However, NewVector proposes that the Commission explicitly exclude cellular authorizations from the proposed "finder's preference" rule.

^{8/} Section I.H. below discusses termination of authorizations. Specifically, NewVector supports the Commission's proposal to automatically terminate authorizations on their stated expiration date without a provision for reinstatement, with one exception — if good cause is shown. The arguments above respecting "finder's preference" procedures are not inconsistent with NewVector's position on automatic termination of authorizations. That is, the notice and comment procedures for "finder's preference" purposes serve as a vehicle by which the Commission can affirmatively determine that an authorization has been terminated before granting authority to a new entity.

constructed or in use. This will enable the Commission to affirmatively determine that an authorization has been terminated before granting authorizations to a new entity.

In this regard, it is relevant that a common carrier's facilities can be properly licensed and "in operation" in some instances even if there are no radio transmissions from the facilities during a specific time period.^{9/} Accordingly, NewVector is concerned that the "finder's preference" procedures will enable "green mailers" to take advantage of new rules, vis-à-vis existing carriers, by alleging "non-operation," causing the carriers to incur substantial legal and administrative costs defending against the allegations. The notice and opportunity to be heard procedures suggested herein will remedy this potential problem.

D. Replacement of Carey Method

NewVector generally supports the proposed use of formulas in place of the Carey Report to determine reliable service and interference contours in the Paging and Radiotelephone Service.^{10/} However, NewVector emphasizes that the formulas should not be adopted unless it can be proven that they closely track service and interference contours

^{9/} For example, a paging station transmits only when customers are paged. If, during some time period, none of the licensee's customers who are paying for service actually sends a page, there will be no radio transmission. Because of the demand-based transmission characteristics of a paging station, the station should be considered operational if it has been constructed, is prepared to transmit as soon as a page is initiated, and has subscribers. Similarly, in the case of a conventional mobile telephone system, the system may use several channels in a trunked configuration, and there may not be any radio transmissions on the lowest-ranked channels in a trunk group unless traffic in the relevant period exceeds the capacity of the higher-ranked channels.

^{10/} See proposed § 22.567. As to Cellular Radiotelephone Service, NewVector fully supports, without condition, the Commission's previously adopted formula which approximates the distance to the 32 dBu contour. The formula, which was adopted in the Commission's unserved area proceeding (CC Docket No. 90-6), is incorporated into the proposed Part 22 rules at § 22.911 and is not the subject of NewVector's Comments made herein.

as defined by the Carey Report. It is necessary that the new formulas track the Carey Report to ensure that there is consistency and backwards compatibility of the contours of existing and future fill-in stations, ^{11/} as well as co-channel interference calculations.

E. Elimination of Traffic Loading Studies

NewVector fully supports the Commission's proposed elimination of existing rules that require Paging and Radiotelephone Service applicants to file traffic loading studies when requesting one or more additional channels for an existing two-way station. NewVector asserts that the proposed "two at a time" rule will eliminate the burden on both licensees and the Commission associated with the preparation and analysis of loading studies. ^{12/} The proposed rule will effectively deter frequency warehousing as well as simplify and, therefore, expedite the licensing process.

F. Elimination of Notification Requirement for Minor Changes and Additional Transmitters Within Contours of Existing Stations

The Commission has proposed allowing licensees to modify facilities by making minor changes and adding transmitters without prior approval or notification — as long as the service and interference contours of the modified/additional facilities are entirely encompassed by the contours of authorized facilities. ^{13/} Such modifications/additional transmitters would not be afforded interference protection.

NewVector supports the Commission's stated goal of conserving both Commission and industry resources. However, for the reasons discussed below, NewVector

^{11/} The term "fill-in" refers to a station whose service contour overlaps the service contours of existing co-channel stations licensed to the same entity by 50% or more.

^{12/} See proposed § 22.569.

^{13/} See proposed §§ 22.163 and 22.165.

urges the Commission to retain the requirement that carriers notify the Commission of minor modifications/additional transmitters by filing a Form 489.

First, under the proposed rules, paging and cellular licensees may, without notifying the Commission, add transmitters or modify facilities as long as the coverage of the new/modified facility is entirely within the coverage of one or more existing co-channel facilities licensed to the same entity. If the original site that formed the basis for the composite service contour (*i.e.*, a perimeter transmitter site) is deleted or its power reduced, the coverage of the new facility, which will not be afforded interference protection, will be wholly or partially outside the coverage area of the remaining facilities. As such, NewVector urges the Commission to retain the notification requirement so that all minor modifications and transmitter additions will be afforded interference protection.

Second, if the notification requirement is eliminated, carriers will not have notice of other carriers' facilities that have been modified or added and will therefore be unable to analyze the potential for interference to *or from* those facilities. As a result, carriers will be unable to identify facilities causing interference to their systems, and will therefore have to engage in an identification process which is difficult, time-consuming and costly. By retaining its Form 489 notification requirement, the Commission's station files will continue to provide carriers with necessary information regarding nearby systems. ¹⁴

Although NewVector believes that licensees should be required to notify the Commission of minor modifications/additional transmitters by filing FCC Forms 489, it

¹⁴ For example, in the cellular radio service, NewVector engineers review Form 489 filings made by adjacent carriers as part of the planning process for adding new cell sites and re-engineering existing cell sites. This allows the engineers to expedite service to the public by resolving most interference issues prior to contacting adjacent carriers.

supports the filing of such notifications no later than 15 days after service begins. ^{16/} A 15 day rule allows carriers to provide service to the public without delay, yet ensures that the Commission and concerned licensees receive notification on a timely basis. In the attached Appendix 1, NewVector has incorporated the 15 day rule into Section 22.163. ^{16/}

G. Revision of Forms

NewVector supports the Commission's proposal to revise application and notification forms in order to prepare for future electronic filing, to facilitate automated entry of technical data into a computer database and to eliminate unnecessary or duplicative items. ^{17/} NewVector has suggested a number of modifications/additions to the proposed new forms, which are set forth at Appendix 2 hereto.

H. Termination of Authorizations

NewVector agrees with the Commission's proposed rule relating to the termination of authorizations, which provides that authorizations automatically expire without further Commission action if a licensee fails to commence service in the time period required by the rules. ^{18/} Automatic termination will enable carriers with a need for spectrum to file applications immediately upon termination of an authorization as defined

^{15/} See proposed § 22.142, which sets forth the 15 day rule for Forms 489 filed to cover construction permits.

^{16/} NewVector has also proposed combining into a single rule section the two proposed rules pertaining to additional transmitters and minor changes, and also adding to that rule section the requirement that a licensee notify the Commission of such changes by filing FCC Forms 489. Under NewVector's proposal, such modifications and additional transmitters will receive interference protection.

^{17/} At Appendix 1 hereto at § 22.105(g), NewVector recommends two-way, electronic access capability through the use of a national packet data network.

^{18/} See proposed § 22.144.

in the rule instead of having to wait for formal Commission action. ^{19/} However, NewVector submits that if good cause can be shown as to why an authorization should not be terminated (*e.g.*, lack of state approval which was timely sought by the applicant), the Commission should consider extensions on a case-by-case basis.

As a related matter, pursuant to proposed Section 22.121(d), licensees whose authorizations have automatically terminated for failure to commence service are precluded from filing an application for another co-channel station in the same area for one year following termination. ^{20/} NewVector is concerned that the one year filing prohibition does not acknowledge the possibility of good cause or circumstances beyond an applicant's control (such as potential interference problems or loss of site) which may cause an authorization to expire. As proposed, the rule will substantially delay licensees that do not provide service pursuant to a particular authorization from expanding wide area systems. Moreover, all entities should be on equal footing with respect to their ability to file new applications. It is highly unlikely that an entity will *continue* to prepare and file numerous applications (a timely and costly process) if it does not intend to construct and operate the proposed facility. Thus, NewVector urges the Commission to afford applicants needed flexibility by eliminating the one year prohibition.

^{19/} As discussed *supra* at n.6., NewVector is proposing that an opportunity for notice and comment be incorporated into the proposed finder's preference procedures, which will ensure that the Commission determines that an authorization is terminated before granting authority to a new entity.

^{20/} In the 931 MHz band, the rule applies to applications for facilities in the same frequency range.

II. OTHER COMMENTS AND PROPOSALS FOR IMPROVING THE REVISION OF PART 22

A. Consistency With Other Rulemakings

In a number of instances, the *NPRM* omitted significant rule provisions recently adopted in rulemakings affecting Part 22. For example, a number of substantive rules adopted in the cellular renewal proceeding, CC Docket 90-358, and the unserved area proceeding, CC Docket 90-6, appear to have been inadvertently omitted from the proposed revision to Part 22.

Since both of those proceedings are pending on reconsideration, it would not be appropriate to engage herein in substantive changes to the rules at issue in those proceedings. In Appendix 1, NewVector has noted where the omitted rules should be incorporated to make the proposed Part 22 consistent with the current Part 22. By suggesting that such omitted rules be incorporated at appropriate places, NewVector does not endorse the rules at issue and does not waive or modify its position regarding reconsideration or review of such rules.

B. Classification of Filings as Major or Minor

1. Relocation of Existing Fixed Transmitters

NewVector supports the Commission's proposal to classify all filings as major or minor pursuant to Section 309 of the Communications Act. In response to the Commission's specific request for comment, NewVector emphasizes that there are circumstances in the Paging and Radiotelephone Service under which a change in the location of a fixed transmitter can be considered minor rather than major.^{21/} Specifically, relocations of fixed transmitters should be classified as minor (and therefore not subject to public notice) as long

^{21/} See proposed §§ 22.123(e)(1)(i)(E) and 22.123(e)(1)(ii)(E).

as the relocation would not result in a substantial change and the facility would continue to operate essentially as authorized. A fixed transmitter should be considered to operate essentially as authorized if its coverage area following relocation remains entirely within the previously authorized coverage area.

2. Extension of Existing Service Area by Less Than One Mile

In proposed Section 22.123, the Commission classifies as major those Paging and Radiotelephone Service applications proposing to modify facilities to extend the service area of a station to include an area not served by station(s) authorized to the filer on a requested channel. NewVector agrees with this proposal, with one exception. The Commission should classify as major only those applications which extend the service area of an existing station *by more than one mile along any of the cardinal radials* to include area not served by station(s) authorized to the filer on a requested channel. NewVector's suggestion is consistent with the current rules, under which a reliable service area extension of one mile or less into an area not authorized to an applicant is deemed to be minor. ^{22/} One mile service area extensions do not increase the potential for interference and are necessary to enable licensees to make insignificant changes (e.g., to correct coordinates of existing authorized facilities) without being subject to public notice.

C. Exemption from FAA Notification for In-Building Radiation Systems

As discussed in detail in Appendix 1, NewVector proposes that the Commission adopt a new rule section to clarify licensees' responsibility for complying with FAA requirements when constructing in-building radiation systems and other antennas located

^{22/} See current § 22.23(c)(2).

entirely within buildings. ^{23/} Specifically, NewVector asserts that licensees of such systems (1) should not be responsible for FAA notification requirements relating to a building, and (2) should not be responsible for compliance with lighting requirements, even if the building itself requires FAA clearance. ^{24/}

In-building radiation systems and antennas are used to provide localized service in buildings receiving poor indoor coverage or to provide microcell service. Such systems are generally completely shielded by a building and therefore present no possible danger to air navigation. Accordingly, NewVector is proposing to eliminate the need to file FAA notifications and comply with FAA and FCC lighting requirements in cases where an antenna and antenna structure are indoors and accordingly do not alter the external appearance or height of a building. The proposed exemption does not result in an increased hazard to air navigation, and will serve the public interest as it will eliminate the delay associated with seeking FAA and FCC approval prior to constructing such systems.

D. Assignments and Transfers

NewVector has a number of suggestions for refining the Commission's assignment and transfer of control procedures under Part 22. First, the Commission should clarify its definition and usage of the terms "assignment of authorization" and "transfer of control." The *NPRM* defines "assignment of authorization" to include a transfer of control

^{23/} See proposed new § 22.115(a)(3)(i) at Appendix 1.

^{24/} The focus of NewVector's proposed new rule is on antennas located entirely within a building. It is NewVector's position that such antennas are not a hazard to air navigation and should therefore be permitted without prior approval respecting marking and lighting requirements. However, the same analysis applies to "microcell" antennas which do not increase the heights of the buildings on which the antennas are being placed. As cellular systems begin to implement PCS-type technologies, the number of low level antennas will increase substantially. Therefore, NewVector suggests that the Commission consider its proposed rule not only in the context of in-building radiation systems, but also with respect to other microcell technologies.

of the licensee, while maintaining a separate definition of "transfer of control."^{25/} Moreover, at some places in the proposed rules, the term "assignment" is used to cover both assignments and transfers, while in other places both terms are used. Since the language of Section 310(d) is intended to be broad and all-inclusive, the use of these two terms in tandem can be viewed as including all cases within the reach of the statute. However, the proposed definitions, coupled with the rules' inconsistent use of the terms, make it unclear what a particular rule section is addressing. For these reasons, NewVector suggests that the Commission maintain separate definitions, but use the two terms together (*i.e.*, "assignment or transfer") whenever the rule intends to cover the full scope of Section 310(d).

The Commission should, however, consider eliminating all differences in regulatory treatment of the two, and eliminate the requirement that a transaction be identified as either an assignment or a transfer on the Form 490. The information needed to process assignments and transfers does not differ in any significant way.^{26/} If there is no valid regulatory reason for the applicant to designate whether its application involves an assignment or transfer, the Commission should not require the designation of one or the other category.

In addition to the above proposal, NewVector suggests that the Commission:

- (1) clarify the financial qualification standard applicable to cellular transfers and assignments;
- (2) eliminate the requirement that the assignee or transferee include a Form 430 in an assignment or transfer application; and
- (3) permit a single application form to be

^{25/} See proposed § 22.99.

^{26/} See Sewell, *Assignments and Transfers of Control of FCC Authorizations Under Section 310(d) of the Communications Act of 1934*, 43 Fed. Comm. L.J. 277, 286 (1991) ("As far as Commission rules and policies are concerned, there are no significant differences between assignments and transfers of control").

filed for a transfer or assignment affecting multiple call signs. These issues are discussed below.

1. Reinstate the Financial Showing Currently
Applicable to Cellular Assignments and Transfers

Although both the current and proposed rules require financial showings to be included in cellular assignment and transfer applications, the language of the proposed rule should be modified to reflect that cost of acquisition, rather than cost of construction, is required. ^{27/} The modification would reflect the Commission's existing policy with regard to acquisitions. Furthermore, consistent with existing practice, applicants requesting *pro forma* assignments or transfers should not be required to submit a financial showing.

Proposed Section 22.937 (Demonstration of Financial Qualifications) provides, in relevant part:

Each applicant for assignment of license or consent to transfer of control must demonstrate that the proposed assignee or transferee has, at the time the application is filed, either a separate market-specific firm financial commitment or available financial resources sufficient to construct and operate for one year the proposed cellular system.

The proposed rule departs from existing regulations by requiring evidence of financial resources for construction rather than acquisition cost. In light of the Commission's prohibition on the sale of unserved area authorizations (*see* proposed Section 22.943), most transfers and assignments will involve systems that have already been constructed. Therefore, the rule should be modified to conform with current Section 22.917(a), which requires a financial showing related to the cost of acquisition. ^{28/}

^{27/} See proposed § 22.937.

^{28/} The current rule, 47 C.F.R. § 22.917(d), provides:

(continued...)

2. Elimination of the Form 430 Requirement in an Assignment/Transfer of Control Application

Under the current rules, an assignment/transfer of control application must include a Licensee Qualification Report (FCC Form 430) or reference to an updated Form 430 on file with the Commission. However, NewVector emphasizes that proposed Sections 22.107(a) (applicant's qualifications) and 22.108 (parties to applications) apply to assignments and transfers of control and require assignees/transferees to provide detailed information regarding the real party in interest and ownership. Therefore, the information submitted on the Form 430 is redundant. NewVector respectfully submits that the Commission eliminate the Form 430 requirement from proposed Section 22.137(a) and thereby eliminate the unnecessary paperwork and processing burden it creates for both applicants and the Commission's staff. ^{29/}

3. Multiple Call Signs in a Single Application

NewVector suggests that the Commission permit a single assignment or transfer application to be filed for a given transaction (other than a partial assignment), even if multiple call signs are involved, as long as the transaction involves the same transferor/assignor, transferee/assignee, and licensee entity. ^{30/} This would be consistent with the practice followed in other services, such as the Point-to-Point Microwave Radio Service, where

^{28/}(...continued)

Each application for assignment of a license (or permit), or for the transfer of control of a corporation holding a license (or permit), shall demonstrate the financial ability of the proposed assignee or transferee *to acquire* and operate the facilities by submitting adequate financial information under the guidelines specified in this section, as appropriate. [Emphasis added.]

^{29/} NewVector's proposal is consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. § 35.

^{30/} See proposed § 22.105.

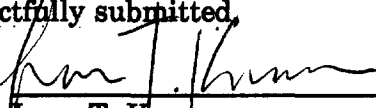
ownership or control changes involving a single licensee may affect multiple stations. In order to maintain its current procedure for processing these applications, the Commission could require the submission of extra copies of the application for inclusion in the multiple station files and apply a fee multiplier based on the number of call signs involved. The only thing that would change is the number of original applications. This would represent a significant reduction in the paperwork burden on the public, eliminate the filing of duplicative materials, and reduce the total number of separate applications filed with the Commission. In short, it would clearly serve the public interest and would cause no adverse impact on Commission oversight of licensee ownership and control.

CONCLUSION

NewVector applauds the Commission's undertaking to revise and update the Part 22 rules. This proceeding provides the Commission with an opportunity to eliminate many needless regulatory burdens and clarify the requirements that are imposed on licensees. NewVector suggests the revisions set forth herein and in the Appendices in an effort to further assist the Commission in this effort.

Respectfully submitted,

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APPENDIX 1

TABLE OF CONTENTS

	<u>Page</u>
Subpart A - Scope and Authority	1
§ 22.99 Definitions	1
Subpart B - Application Requirements and Procedures	3
§ 22.105 Written applications, standard forms, microfiche, magnetic disks	3
§ 22.105(g) Magnetic disks	3
§ 22.107 General application requirements	4
§ 22.108 Parties to applications	4
§ 22.115 Content of applications	7
§ 22.115(a)(3)	7
§ 22.115 Content of Applications	8
§ 22.121 Repetitious, inconsistent or conflicting applications.	9
§ 22.121(a)	9
§ 22.121(d)	9
§ 22.123 Classification of filings as major or minor	10
§ 22.123(a)	10
§ 22.123(b)	11
§ 22.123(e) Channel usage	12
§ 22.123(e)(1)(i)(B)	13
§ 22.123(e)(1)(i)(E)	13
§ 22.123(e)(1)(ii)(B)	14
§ 22.123(e)(1)(ii)(E)	14
§ 22.123(e)(1)(ii)(E)	15
§ 22.123(e)(2)	15
§ 22.125 Applications for special temporary authorizations	16
§ 22.125(b)	17
§ 22.133 Random selection process.	18
§ 22.135 Settlement conference	18
§ 22.137 Assignment of authorization; transfer of control.	19
§ 22.137(a)	19
§ 22.137(b)	20
§ 22.137(c)(2)	21
§ 22.137(e) (Proposed new subsection)	21
§ 22.142 Commencement of service; notification requirement.	22
§ 22.143(e) Construction prior to grant of application.	22
§ 22.144 Termination of authorizations	22
§ 22.159 Computation of average terrain elevation.	22
§ 22.163 Minor modifications to existing stations	23
§ 22.165 Additional transmitters for existing systems	23
§ 22.163 Minor modifications and permissive changes to existing systems	23
§ 22.167 Applications for assigned but unused channels	25

TABLE OF CONTENTS

	<u>Page</u>
Subpart C - Operational and Technical Requirements	26
§ 22.313 Station identification	26
§ 22.323 Incidental communications services	26
§ 22.365 Antenna structures; air navigation; air navigation safety	27
§ 22.367 Antenna polarization	27
§ 22.367(a)(4)	27
Subpart E - Paging and Radiotelephone Service	29
§ 22.507 Number of transmitters per station	29
§ 22.509 Procedure for mutually exclusive applications	30
§ 22.535 Effective radiated power limits	31
§ 22.537(g) In-building radiation systems	31
§ 22.563 Provision of rural radio service upon request	32
§ 22.565 Transmitting power limits	32
§ 22.567 Technical channel assignment criteria	33
§ 22.567(b) Protection for fixed receivers	33
§ 22.569 Additional channel policies	33
§ 22.577 Grandfathered dispatch service	34
Subpart F - Rural Radiotelephone Service	35
§ 22.701 Scope	35
§ 22.709 Rural radiotelephone application requirements	35
§ 22.715 Technical channel assignment criteria for rural radiotele- phone stations	36
§ 22.725(d) (new subsection)	37
§ 22.751 et seq.	37
§ 22.757 Channels for basic exchange telephone radio systems	38
Subpart G - Air-ground Radiotelephone Service	39
§ 22.819 AGRAS compatibility requirements	39
Subpart H - Cellular Radiotelephone Service	40
§ 22.903 Conditions applicable to former Bell Operating Companies ...	40
§ 22.911 Cellular geographic service area	40
§ 22.911(b)	41
§ 22.911(c)(1) Cellular geographic service area	41
§ 22.911(d)	42
§ 22.912(a) Service area boundary extensions	42
§ 22.913 Effective radiated power limits	43
§ 22.919 Electronic serial numbers	44
§ 22.923 Cellular system configuration	44

TABLE OF CONTENTS

	<u>Page</u>
§ 22.933 Cellular system compatibility specifications	45
§ 22.935 Procedures for comparative renewal proceedings	46
§ 22.937 Demonstration of financial qualifications	46
§ 22.937(d)	47
§ 22.937(g)	48
§ 22.937(h) New Subsection	48
§ 22.939 Limitations on amendments to applications	49
§ 22.939(c) New subsection	50
§ 22.941 System identification numbers	50
§ 22.943 Limitations on assignment of cellular authorizations	51
§ 22.943(a)(3) New Subsection	51
§ 22.943(d) New Subsection	51
§ 22.946(a) Construction period for cellular systems	52
§ 22.946(b)(1) and (b)(2)	53
§ 22.946(c)	53
§ 22.947 Five Year fill-in period	55
§ 22.947(a)	55
§ 22.947(b)(1)	55
§ 22.947(c)	56
§ 22.949(a)-(b) Unserved area licensing phases, procedures and filing win- dows.	56
§ 22.951 Minimum coverage requirement.	57
§ 22.953(a)-(e) Content and form of applications.	58
§ 22.953 Content and form of applications.	58

Subpart A - Scope and Authority

§ 22.99

Definitions.

NPRM:

Assignment of Authorization. A transfer of a Public Mobile Services authorization from one party to another, voluntarily or involuntarily, directly or indirectly, or by transfer of control of the licensee.

Recommendation:

Option 1:

Assignment of Authorization. A transfer, assignment, or other disposition of a Public Mobile Services authorization from the licensee to another party, voluntarily or involuntarily, directly or indirectly.

Option 2:

Assignment of Authorization. A transfer, assignment, or other disposition of a Public Mobile Services authorization, from the licensee or the person(s) owning or controlling the licensee to another party or parties, voluntarily or involuntarily, directly or indirectly. Except where the context indicates otherwise, includes a transfer of control of the licensee (*see* definition).

Discussion:

Section 310(d) of the Communications Act is worded so as to apply to all dispositions of authorizations, including dispositions through transfers of control. The *NPRM*'s proposed definition attempts to be similarly all-inclusive. However, some of the rules still discuss both assignments and transfers. The only situation in which there would appear to be any difference in regulatory treatment between the two is in the case of partial assignments, where some (but not all) of a licensee's facilities are transferred to another.

NewVector suggests that a more precise definition, and inclusion of more of the statutory terms, would be beneficial. Two options are presented. The first is to retain the definitional distinction between assignments and transfers, while the second is, as in the *NPRM*, to define assignments as including transfers of control. Under the second option, NewVector recommends that the definition make clear that in some contexts the term "assignment" may not include transfers of control. NewVector recommends that if the second option (or a similar approach) is adopted, the Commission revise its rules where appropriate to refer only to assignments, rather than assignments and transfers. *See* proposed § 22.137 (Assignment of authorization; transfer of control); revised FCC Form 490; *but see* proposed § 22.943 (assignment of authorizations in the Cellular Radiotelephone Service includes transfers of control).